

Under the Radar: Proposed Rules Will Complicate New Water Projects

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The Family Farm Alliance (Alliance) last week formally responded to President Obama's Council on Environmental Quality (CEQ) efforts to prepared new standards for all federal water projects. CEQ's standards, which will be forwarded to the National Academy of Sciences (NAS) for further review, seek to elevate the environmental impacts of water projects to equal footing with traditional cost-benefit economic calculations.

There is growing concern within the water user community and among flood control interests that the goal of avoiding adverse impacts to ecosystems could prevent nearly any proposed water infrastructure project moving forward. The Alliance submitted detailed comments to CEQ that detail many of these types of concerns.

White House CEQ last December released a proposal that would significantly change the principles and guidelines that govern America's water resource planning. The proposal would require that such projects help to improve the economic well-being of the nation for present and future generations, better protect communities from the effects of floods and storms, help communities and individuals make better choices about where to build based on an understanding of the risk, and protect and restore the environment.

The first set of "Principles and Standards" (P&S) was issued in September 1973 to guide the preparation of river basin plans and to evaluate federal water projects. Following a few attempts to revise those initial standards, the current principles and guidelines (P&G) went into effect in March 1983. Congress in 2007 instructed the Secretary of the Army to develop a new P&G for the U.S. Army Corps of Engineers. In an effort to "modernize" the approach to water resources development, the Obama Administration is expanding the scope of these guidelines to cover all federal agencies (including the Bureau of Reclamation and Natural Resources Conservation Service) that undertake water resource projects.

The proposed P&S will form a central component of water resources public policy in the U.S. and will directly influence the type, nature and specific features of federal water resources projects agencies recommend for Congressional authorization. They are critical to determining what federal investments are made in water resources and how they are made. Congress recognized this, too, when it passed the Water Resources Development Act (WRDA) in 2007.

The intent of 2007 WRDA was to provide a more balanced approach to water resources management decision making. Unfortunately, the draft CEQ document clearly elevates non-structural and environmental elements over economic and human benefits and safety.

This apparent bias is viewed with great concern by managers who run irrigations systems and flood control works throughout the Western U.S. Without more emphasis on the economic impacts, human benefits and safety issues, jobs will continue to be lost and communities will become increasingly threatened by natural disasters that can be planned and mitigated for.

The draft CEQ policy needs some work. For example, in several parts of the proposed principles and standards, the terminology is vague. The combination of this difficult-to-decipher terminology and uncertain scope and study processes for new projects may increase the potential for litigation and delay. The draft proposal also establishes a predetermined set of priorities and clear preference for a watershed, ecosystem and non-structural assessment approach.

This proposal as currently drafted could bring water project development to a halt. The process it creates is daunting and uncertain, and the costs and delays it would impose could preclude many planning and development efforts.

Western water users do not want to see a program that becomes mired in a process that ultimately delays implementation of critical projects. Those projects - especially those that enhance water supplies - already are very time-intensive and any additional delay for planning and studies will only add to the time frame for providing relief.

The increased control exerted by federal agencies through a variety of means has already led to gridlock in the management of water supplies in the West. The draft P&S, if implemented, will lead to more of the same.